VITAMIN PREPARATIONS AND FOOD FOR SPECIAL DIETARY USES*

5769. Adulteration and misbranding of coconut milk and powdered milk of soya bean, and adulteration of candy. U. S. v. John Bruno Radcliffe (Radcliffe Soya Products). Plea of guilty. Defendant placed on probation. (F. D. C. No. 7260. Sample Nos. 13603–E, 13800–E, 21643–E, 21644–E, 61593–E, 63220–E, 85111–E to 85113–E, incl.)

The labeling of the coconut milk and the powdered milk of soya bean bore exaggerated claims regarding the nutritional properties of the articles. A portion of the coconut milk contained insect parts and a rodent-like hair, and various portions of the candy contained one or more of the following filthy substances: Rodent-type hairs and excreta, rodent pellets, larvae, beetles, mites, small flies, larva cast skins, larva capsules, larva and insect fragments, and worm capsules, skin, fragments, and cast skin.

On August 11, 1942, the United States attorney for the Northern District of California filed an information against John Bruno Radcliffe, trading as Radcliffe Soya Products, San Francisco, Calif., alleging shipment within the period from on or about February 8, 1940, to November 24, 1941, from the State of California into the States of Idaho and Washington of a quantity of food that was adulterated and misbranded. The article was labeled in part: (Cans) "Radcliffe's Original Powdered Milk of Soya Bean," or "Tropical Cocoanut Milk," (boxes) "Hollywood Candy Bar," (wrappers) "Papaya Fruit Bar," "Alfa-Soya-Bar Lime," "Soya-Milk-Bar Cherry Fudge," "Soya-Bar Cream Nut [or "Orange," "Cocoanut Fruit," or "Soya Brittle"]," or "Avocado Candy Bar."

The powdered milk of soya bean was alleged to be adulterated in that a mixture of powdered soya bean and powdered skim milk had been substituted in whole or in part for powdered milk of soya bean, which the article purported and was represented to be.

It was alleged to be misbranded because of false and misleading statements appearing in its labeling which represented and suggested that it was endorsed by the U. S. Department of Agriculture, Washington, D. C.; that it was original powdered milk of soya bean; that it was especially valuable for infant feeding and was as good as or better than mother's milk; and that it was rich in vitamins; that it was a nerve, brain, and gland rejuvenator; and that it was beneficial for diabetics.

A portion of the coconut milk was alleged to be adulterated in that it consisted in whole or in part of a filthy substance.

All of the coconut milk was alleged to be misbranded in that the statements appearing in the labeling which represented and suggested that it was a tropical coconut milk; that it would provide energy, strength, and vitality to the user; that it was efficacious for health building, and would be efficacious in the cure, mitigation, treatment, or prevention of colitis, underweight, weak stomach, stomach ulcers, nerve exhaustion and sleeplessness; and that it would be beneficial for convalescents, and was rich in vitamins and minerals, were false and misleading since it was not a tropical coconut milk and it would not be efficacious for the purposes claimed.

The coconut milk and the powdered milk of soya bean were also alleged to be misbranded under the provisions of the law applicable to drugs as reported in the notices of judgment on drugs and devices, No. 933.

The candy was alleged to be adulterated in that it consisted in whole or in part of a filthy substance, and in that it had been prepared under insanitary conditions whereby it might have become contaminated with filth.

On November 3, 1942, the defendant having entered a plea of guilty, the court placed him on probation for 2 years.

5770. Adulteration and misbranding of Hain Abgede Capsules. U. S. v. Harold Hain (Hain Pure Food Co.) Plea of not guilty. Tried to the court. Judgment of not guilty on counts charging violation of sections of the law applicable to foods; guilty on counts charging violation of sections of the law applicable to drugs. (F. D. C. No. 4154. Sample No. 32640–E.)

On September 10, 1941, the United States attorney for the Southern District of California filed an information against Harold Hain, trading as the Hain Pure Food Co., at Los Angeles, Calif., alleging shipment on or about October 11, 1940, from the State of California into the State of Arizona of a quantity of Hain Abgede Capsules.

The article was alleged to be an adulterated food in that a valuable constituent, vitamin B_1, had been in part omitted or abstracted therefrom.

---

*See also Nos. 5688, 5689.

It was alleged to be a misbranded food (1) in that the statement, "Each Capsule Contains Not less than * * * B_1—45 Sherman (25 Int.) units," borne on the boxes, was false and misleading since the article contained not more than 15 International Units of vitamin B_1, equivalent to not more than 27 Sherman units of vitamin B_1; (2) in that the statement: "Vitamins A B_1 G D," borne on the boxes, was misleading since it represented that the article contained a consequential amount of each of the vitamins named, whereas it contained only an inconsequential amount of vitamins B_1 and G, and when consumed in the maximum dosage recommended and suggested, 2 capsules per day, it would supply not more than $\frac{1}{75}$ of the minimum daily requirement of an adult for vitamin B_1, and not more than $\frac{1}{40}$ of the minimum daily requirement of an adult for vitamin G.

The article was also charged to be an adulterated and misbranded drug as reported in drugs and devices notices of judgment, No. 919.

On September 29, 1941, the defendant entered a plea of not guilty. On April 15, 1943, the case having been submitted to the court on a stipulation of facts and briefs, the defendant was found not guilty of violating the provisions of the law applicable to foods, but was found guilty of violating the provisions applicable to drugs, and was fined $100 on each of the 2 counts on which he had been convicted. Sentence, however, was suspended on 1 of the said counts. The court's decision of not guilty on the 2 counts charging the product to be a food was based on an opinion that under the terms of the Federal Food, Drug, and Cosmetic Act vitamin preparations are drugs, but are not foods. The opinion of the court is printed in notice of judgment No. 919, covering drugs and devices.

5771. Adulteration and misbranding of Sentinel A & D Vitamin Tablets. U. S. v. Forest City Products, Inc. Plea of guilty. Fine, $150 and costs. (F. D. C. No. 10534. Sample No. 37737–F.)

On September 11, 1943, the United States attorney for the Northern District of Ohio filed an information against Forest City Products, Inc., Cleveland, Ohio, alleging shipment on or about January 12, 1943, from the State of Ohio into the State of Illinois of a quantity of the above-named product which was adulterated and misbranded.

The article was alleged to be adulterated in that a valuable constituent, vitamin A, had been in whole or in part omitted or abstracted therefrom since it was represented to contain 5,000 U. S. P. units of vitamin A in each tablet, whereas it contained not more than 2,000 U. S. P. units of vitamin A in each tablet.

It was alleged to be misbranded in that the statement in its labeling, which represented that each of the tablets contained 5,000 U. S. P. units of vitamin A; that each of the tablets contained 1¼ times the minimum adult daily requirement of vitamin A; and that each tablet contained the amount of vitamin A contained in 1¼ teaspoonfuls of cod liver oil of minimum U. S. P. strength was false and misleading since each tablet contained not more than 2,000 units of vitamin A, not more than ½ of the minimum adult daily requirement of vitamin A, and not more than ½ the amount of vitamin A contained in 1¼ teaspoonfuls of cod liver oil of minimum U. S. P. strength. It was alleged to be misbranded further in that the statement "Essential for health," appearing in its labeling, was misleading since it suggested and created in the mind of the reader the impression that the article was essential for health, whereas it was not; and in that certain words, statements, or information required by the law to appear in the labeling were not prominently placed thereon with such conspicuousness (as compared with other words, statements, designs, or devices in the labeling) as to render them likely to be read and understood by the ordinary individual under customary conditions of purchase and use, in that the article purported to be and was represented for special dietary use by man by reason of its vitamin property in respect of vitamin A and vitamin D, and the statement of the proportion of the minimum daily requirements for such vitamins which would be supplied by the article when consumed in a specified quantity during a period of 1 day, which statement is required by regulations promulgated pursuant to the law, was printed on the bottom of the box in small and inconspicuous type.

On October 22, 1943, the defendant having entered a plea of guilty, the court imposed a fine of $100 on the first count and $50 on the second count, together with costs.